

subject to arbitrary and capricious actions of rogue nations bent on perverting the International Criminal Court.

None other than President George Washington warned his posterity about certain relations with foreign governments that might put liberty at risk.

The system of law that is likely to be practiced in the ICC is outside of our Constitution and our rule of law. It does violence to the very common law that is our inheritance. There is little doubt that the framers of the Constitution would reject this peculiar foreign legal system outright as a form of tyranny. The notion that our citizens, men and women in uniform, would be subject to the whims of a foreign court is anathema to the principles of the American founding.

American citizens and their military personnel should never be subject to laws not created by the American people. The fear voiced by George Washington must control our debate today.

Mr. DELAY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on International Relations.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I thank the gentleman from Texas (Mr. DELAY) for yielding me this time.

Mr. Chairman, I think it would be a terrible mistake to submit our military to this International Criminal Court. First of all, double jeopardy. If we read the Statute of Rome, it is left to a court to decide if our court martial was a genuine, honorable, honest effort. If they do not like it and one gets discharged, that person can be retried.

The decision is made, "The case is being investigated or prosecuted by a state which has jurisdiction over it unless the State is unwilling or unable genuinely to carry out the investigation." Who decides if it was a genuine investigation? A Chinese court?

The same means by which we were excluded from the Human Rights Commission can exclude us from participation in this court, because one becomes a member by the votes of the member states.

Now, the crime of aggression, maybe that is flying along the China coast in international waters; maybe that is the crime of aggression to some people. Why submit our people to this? It is alien.

Mr. LANTOS. Mr. Chairman, I yield myself 30 seconds to close.

Mr. Chairman, no Member of this body is in favor of having American servicemen or servicewomen tried by an International Criminal Court. As we outlined earlier, our service people abroad are tried by our own military courts.

We are in favor of establishing an International Criminal Court similar to the one at the end of the Second

World War, the Nuremberg Tribunal, and similar to the one currently dealing with international criminals of the former Yugoslavia's bloodshed.

I ask my colleagues to vote against the DeLAY amendment.

Mr. PAUL. Mr. Chairman, I rise to join Mr. DELAY in expressing serious concern over the subject matter of his amendment, that is, the International Criminal Court (ICC).

Considering the detestable substance of the balance of H.R. 1646, fortunately, the underlying bill is silent on the ICC other than to prohibit funds authorized for International Organizations from being used to advance the International Criminal Court. As such, I have some reservations with the amendment offered by Mr. DELAY because it singles out one class of American citizens for protection from ICC jurisdiction (thus violating the doctrine of equal protection), it supposes that if the Senate ratifies the ICC treaty, U.S. citizens would then be subject to the court it creates, and it illegitimately delegates authority over which U.S. citizens would be subject to the ICC to the U.S. president. Moreover, his amendment would authorize U.S. military actions to "rescue" citizens of allied countries from the grips of the ICC, even if those countries had ratified the treaty. It may be better to remain silent (as the bill does in this case) rather than lend this degree of legitimacy to the ICC.

It is certainly my view (and that of the 21 cosponsors of my bill, HCR 23), that the President should immediately declare to all nations that the United States does not intend to assent to or ratify the International Criminal Court Treaty, also referred to as the Rome Statute of the International Criminal Court, and the signature of former President Clinton to that treaty should not be construed otherwise.

The problems with the ICC treaty and the ICC are numerous. The International Criminal Court Treaty would establish the International Criminal Court as an international authority with power to threaten the ability of the United States to engage in military action to provide for its national defense.

The term "crimes of aggression", as used in the treaty, is not specifically defined and therefore would, by design and effect, violate the vagueness doctrine and require the United States to receive prior United Nations Security Council approval and International Criminal Court confirmation before engaging in military action—thereby putting United States military officers in jeopardy of an International Criminal Court prosecution. The International Criminal Court Treaty creates the possibility that United States civilians, as well as United States military personnel, could be brought before a court that bypasses the due process requirements of the United States Constitution.

The people of the United States are self-governing, and they have a constitutional right to be tried in accordance with the laws that their elected representatives enact and to be judged by their peers and no others. The treaty would subject United States individuals who appear before the International Criminal Court to trial and punishment without the rights and protections that the United States Constitution guarantees, including trial by a jury of one's peers, protection from double jeopardy, the right to know the evidence brought against one, the right to confront one's accusers, and the right to a speedy trial.

Today's amendment, rather than be silent as is currently the case with the bill, supposes

that ratification would subject U.S. citizens to the ICC but the Supreme Court stated in *Missouri v. Holland*, 252 U.S. 416, 433 (1920), *Reid v. Covert*, 354 U.S. 1 (1957), and *DeGeofrey v. Riggs*, 133 U.S. 258, 267 (1890) that the United States Government may not enter into a treaty that contravenes prohibitory words in the United States Constitution because the treaty power does not authorize what the Constitution forbids. Approval of the International Criminal Court Treaty is in fundamental conflict with the constitutional oaths of the President and Senators, because the United States Constitution clearly provides that "[a]ll legislative powers shall be vested in a Congress of the United States," and vested powers cannot be transferred.

Additionally, each of the 4 types of offenses over which the International Criminal Court may obtain jurisdiction is within the legislative and judicial authority of the United States and the International Criminal Court Treaty creates a supranational court that would exercise the judicial power constitutionally reserved only to the United States and thus is in direct violation of the United States Constitution. In fact, criminal law is reserved to the states by way of the tenth amendment and, as such, is not even within the federal government's authority to "treaty away."

Mr. Chairman, the International Criminal Court undermines United States sovereignty and security, conflicts with the United States Constitution, contradicts customs of international law, and violates the inalienable rights of self-government, individual liberty, and popular sovereignty. Therefore, the President should declare to all nations that the United States does not intend to assent to or ratify the treaty and the signature of former President Clinton to the treaty should not be construed otherwise.

Mr. WELDON of Florida. Mr. Chairman, today I rise in strong support of the amendment offered by my colleague, Majority Whip TOM DELAY. This amendment to H.R. 1646, the Foreign Relations Authorization Act is important if we are to overturn a last minute act by the previous Administration. By signing the U.S. onto the International Criminal Court just a few hours before leaving office, Mr. Clinton chose to subject U.S. troops and our military actions to second guessing by international judicial bureaucrats appointed by an international body.

Mr. DELAY's amendment provides legal protections to ensure that American citizens, especially U.S. military personnel, are not prosecuted by the International Criminal Court for actions undertaken by them on behalf of the U.S. government. This amendment prohibits (1) U.S. cooperation with the Court except to free American citizens or those of our allies; and (2) providing classified information to the court. In addition, it requires that countries receiving U.S. military assistance (other than NATO, non-NATO allies and Taiwan) must exempt Americans from prosecution or arrest by the court on their soil. Finally, it requires that the U.N. Security Council exempt American military personnel engaged in assessed U.N. peacekeeping operations from prosecution by the Court.

A brief look at recent actions by the United Nations demonstrates how foolish it would be to sign up to this treaty. The United Nations just recently removed the United States from the Human Rights Commission, and placed on